

Travelers Insurance Company, one of Weir Specialty Pump's previous workers compensation insurance carriers, asks the Utah Labor Commission to review Administrative Law Judge Eblen's determination that Travelers is liable for benefits due J. E. P. under the Utah Occupational Disease Act ("the Act"; Title 34A, Chapter 3, Utah Code Ann.).

The Labor Commission exercises jurisdiction over this motion for review pursuant to Utah Code Ann. §63-46b-12, Utah Code Ann. §34A-3-102, Utah Code Ann. §34A-2-801(3) and Utah Admin. Code R602-2-1.M.

BACKGROUND AND ISSUES PRESENTED

On April 24, 2002, Mr. P. filed an Application For Hearing with the Commission to compel Weir and Travelers to pay medical expenses and disability benefits for problems with Mr. P.'s right hand. Judge Eblen conducted an evidentiary hearing on Mr. P.'s claim on April 8, 2003. On September 15, 2003, Judge Eblen issued her decision awarding benefits to Mr. P., holding Weir and Travelers liable for those benefits, and releasing Weir's other previous insurance carriers from any liability for Mr. P.'s benefits.

Travelers now asks the Commission to review Judge Eblen's decision. Specifically, Travelers contends that the medical aspects of this matter should be referred to a medical panel, and that Zurich American Insurance, instead of Travelers, should be held liable for Mr. P.'s benefits.

FINDINGS OF FACT

The Commission affirms Judge Eblen's findings of fact, which may be summarized as follows.

For 15 ½ years, Mr. P. worked as a machinist for Weir. His work duties required strenuous use of his hands. Beginning in 1995, he experienced various maladies involving his hands. Prior to January 1, 2002, he had developed "hypothenar hammer syndrome" in his right hand. This condition was caused by numerous factors, including the cumulative effects of his work at Weir.

Travelers was Weir's workers' compensation carrier from 1999 through 2001. Zurich was Weir's insurance carrier after January 1, 2002.

DISCUSSION AND CONCLUSION OF LAW

Judge Eblen has awarded temporary total and permanent partial disability compensation, as well as medical benefits, for Mr. P.'s hypothenar hammer syndrome. Although Travelers' motion for review alleges the existence of a medical dispute regarding the cause of Mr. P.'s condition, Travelers' motion for review identifies no medical evidence of any kind to support its contention. The Commission therefore concurs with Judge Eblen's award of benefits to Mr. P..

Regarding liability for Mr. P.'s benefits, the Commission notes that Mr. P.'s occupational disease developed over the course of many years of employment at Weir. During those years, Weir had several different workers' compensation insurance carriers. Judge Eblen concluded that, under such circumstances, the carrier providing coverage during the last period of injurious exposure is liable for the benefits due.

Travelers does not contest the foregoing principle. Instead, Travelers argues that Mr. P.'s injurious exposure continued into 2002, when Zurich was Weir's insurance carrier. Thus, according to Travelers, it was Zurich that was Weir's insurance carrier at the time of the last injurious exposure.

Once again, Travelers does not identify any evidence to support its argument. The medical record, and particularly the report of Dr. Knorpp, establishes that Mr. P.'s hypothenar hammer syndrome had already developed before Zurich assumed responsibility for coverage. Consequently, liability for Mr. P.'s condition falls to the previous carrier, Travelers.

ORDER

The Commission affirms Judge Eblen's decision and denies Travelers' motion for review. It is so ordered.

Dated this 6th day of April, 2004.

R. Lee Ellertson, Commissioner